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Douglas M. Camens

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EXAMINER

CHANKONG, DOHM

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/821,176
Filing Date: March 29, 2001
Appellant(s): CAMENS, DOUGLAS M.

James D. Leimbach
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/20/2007 appealing from the Office action mailed 6/22/2006.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 6182116	Namma et al	1-2001
US 6281790	Kimmel et al	8-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namma et al. (U.S. Patent Number 6,182,116), hereinafter referred to as Namma, in view of Kimmel et al. (U.S. Patent Number 6,281,790), hereinafter referred to as Kimmel.
3. Namma disclosed a remote monitoring system that allows a user to send commands to linked devices (such as video cameras) and receive data from the devices. In an analogous

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art, Kimmel disclosed a remote monitoring system that utilizes a web server embedded in a centrally located host monitoring station.

4. Concerning claims 1, 7, and 12, Namma did not explicitly state the interface of each linked device as an interface with a network separate from the Internet. However, connecting computers over a network other than the Internet was well known in the art. This is exemplified in a remote monitoring environment by Kimmel who uses both wired and wireless LAN embodiments in connecting his devices. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Namma by adding the ability for each linked device to comprise an interface with a network separate from the Internet as provided by Kimmel. Here the combination satisfies the need for a remote monitoring system where the precise location of an object being monitored can be provided to a monitoring site in real time. See Kimmel, column 1, line 65 through column 2, line 5.

5. Concerning claims 1, 7, and 12, Namma did not explicitly state the user operated web browser receiving data directly from the plurality of linked devices that have been selected. However, providing data from a monitored site directly to a monitoring site in a remote monitoring network was well known in the art as evidenced by Kimmel whose remote monitoring system allows for monitored data to be sent directly to a monitoring site (or user operated browser). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Namma by adding the ability for the

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user operated web browser to receive data directly from the plurality of linked devices that have been selected as provided by Kimmel. Again the combination satisfies the need for a remote monitoring system where the precise location of an object being monitored can be provided to a monitoring site in real time. See Kimmel, column 1, line 65 through column 2, line 5.

6. The line citations below refer to Namma unless otherwise noted. Thereby, the combination of Namma and Kimmel discloses:

- <Claim 1>

A peer distributed, embedded web server system accessing and controlling a multiplicity of devices, comprising:

a master control device comprising an embedded web server, peer interface module, and host software (figure 9, item 91);

a plurality of linked devices that communicate with, and that are controlled by, said embedded web server of said master control device (figure 9, items 92 and 93), said plurality of linked devices each comprising an interface with a network separate from the internet that communicates with the peer interface module of said master control device to be controlled by said embedded web server (figure 9, items 21 and 31 and Kimmel, figure 3, Ethernet Network); and

means for providing a user operated web browser communicating with said master control device in order to access said plurality of linked devices (figure 9, item 94), wherein said user operated web browser controls said plurality of linked devices

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through said master control device (column 21, lines 30-43 and 55-62) and said user operated web browser receives data directly from said plurality of linked devices that have been selected (column 21, line 62 through column 22, line 5 and Kimmel, column 2, lines 23-35).

- <Claim 2>

The peer distributed, embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 1, wherein said peer interface module of said master control device has an addressing capability for communicating individually with each of the interface modules of said plurality of linked devices (column 21, lines 30-47).

- <Claim 3>

The peer distributed, embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 1, wherein said master control device and said plurality of linked devices each comprises a device from the group of digital video recorder, digital video encoder, and network camera (column 21, lines 23-30, figure 14, item 2002, and figure 9, items 2002 and 3002).

- <Claim 4>

The peer distributed, embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 3, wherein each digital video recorder is operatively connected to at least one camera (column 24, lines 39-42).

- <Claim 5>

The peer distributed, embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 1, wherein said master control device and said linked devices are each operatively connected to at least one camera (figure 14, item 2002 and figure 9, items 2002 and 3002).

- <Claim 6>

The peer distributed, embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 5, wherein said web browser provides HTTP commands to said master control device for receiving a video stream from at least one of said predetermined EWS devices in said EWS system (column 21, line 62 through column 22, line 5).

- <Claim 7>

An embedded web server system for accessing and controlling a multiplicity of devices, comprising:

a master control device comprising an embedded web server, peer interface means, and host software (figure 9, item 91);

a plurality of linked devices that communicate via a network separate from the internet, and that are controlled by, said embedded web server of said master control device (figure 9, items 92 and 93 and Kimmel, figure 3, Ethernet Network), said plurality of linked devices each comprising an interface that communicates with the peer interface means of said master control device to be controlled by said embedded web server (figure 9, items 21 and 31); means for providing a user operated web

browser for communicating with said master control device in order to access said plurality of linked devices (figure 9, item 94); and

at least one camera operatively connected to said master control device, and at least one camera operatively connected to each of said plurality of linked devices (figure 14, item 2002 and figure 9, items 2002 and 3002) wherein said cameras are controlled by said user operated web browser through said master control device (column 21, lines 30-43 and 55-62) and said user operated web browser receives images directly from any of said cameras that have been selected (column 21, line 62 through column 22, line 5 and Kimmel, column 2, lines 23-35).

- <Claim 8>

The embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 7, wherein said peer interface means of said master control device has an addressing capability for communicating individually with each of the interfaces of said plurality of linked devices (column 21, lines 30-47).

- <Claim 9>

The embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 7, wherein said master control device and said plurality of linked devices each comprises a digital video recorder (column 24, lines 39-42).

- <Claim 10>

The embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 7, wherein said master control device is

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operatively connected to each of said at least one cameras of said linked devices (figure 9, items 2002 and 3002).

- <Claim 11>

The embedded web server system for accessing and controlling a multiplicity of devices in accordance with claim 10, wherein said web browser provides HTTP commands to said master control device for receiving a video stream from at least one of said predetermined devices in said EWS system (column 21, line 62 through column 22, line 5).

- <Claim 12>

A distributed system for accessing and controlling a multiplicity of devices, comprising:

a master control device comprising a peer interface having an embedded web server and host software (figure 9, item 91);

a plurality of linked devices that communicate via a network separate from the internet, and that are controlled by, said embedded web server of said master control device (figure 9, items 92 and 93 and Kimmel, figure 3, Ethernet Network), said plurality of linked devices each comprising an interface that communicates with the peer interface module of said master control device allowing control of each said linked device by said embedded web server through said interface (figure 9, items 21 and 31); a web browser (figure 9, item 94) configured to access the master control device and allow the web browser to control said plurality of linked devices through the master control device (column 21, lines 30-43 and 55-62) and directly receive data

from each of said plurality of linked devices (column 21, line 62 through column 22, line 5 and Kimmel, column 2, lines 23-35).

- <Claim 13>

The distributed system for accessing and controlling a multiplicity of devices in accordance with claim 12, wherein said peer interface module of said master control device has an addressing capability for communicating individually with each of the interface modules of said plurality of linked devices (column 21, lines 30-47).

- <Claim 14>

The distributed system for accessing and controlling a multiplicity of devices in accordance with claim 12, wherein said master control device and said plurality of linked devices each comprises a device from the group of digital video recorder, digital video encoder, and network camera (column 21, lines 23-30, figure 14, item 2002, and figure 9, items 2002 and 3002).

- <Claim 15>

The distributed system for accessing and controlling a multiplicity of devices in accordance with claim 14, wherein each digital video recorder is operatively connected to at least one camera (column 24, lines 39-42).

- <Claim 16>

The distributed system for accessing and controlling a multiplicity of devices in accordance with claim 12, wherein said master control device and said linked devices are each operatively connected to at least one camera (figure 14, item 2002 and figure 9, items 2002 and 3002).

- <Claim 17>

The distributed system for accessing and controlling a multiplicity of devices in accordance with claim 16, wherein said web browser provides HTTP commands to said master control device for receiving a video stream from at least one of said predetermined EWS devices in said EWS system (column 21, line 62 through column 22, line 5).

- <Claim 18>

The distributed server system for accessing and controlling a multiplicity of devices in accordance with claim 12, further comprising a viewer within web browser that allows each of said linked devices to be viewed by said master control device (column 23, lines 32-36).

- <Claim 19>

The distributed server system for accessing and controlling a multiplicity of devices in accordance with claim 18, further comprising a web page within said web browser allows incorporation at least one additional of said linked devices into the distributed server system (column 22, lines 6-28).

- <Claim 20>

The distributed server system for accessing and controlling a multiplicity of devices in accordance with claim 19, wherein said web page provides address entry of said at least one additional of said linked devices and incorporation of said at least one additional of said linked into said viewer (column 22, lines 6-28).

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Since the combination of Namma and Kimmel discloses all of the above limitations, claims 1-20 are rejected.

(10) Response to Argument

I. THE REJECTION OF CLAIMS 1-20 UNDER 35 U.S.C §103(A) AS BEING OBVIOUS OVER NAMMA, IN VIEW OF KIMMEL SHOULD BE AFFIRMED

There must be some articulated reason with some rational underpinning to support the legal conclusion of obviousness. KSR Int'l v. Teleflex, Inc., 127 S. Ct. 1727, 1741 (2007).

Such reasoning can be based on interrelated teachings of multiple patents and the background knowledge possessed by a person having ordinary skill in the art. KSR, 127 S. Ct. at 1740-41.

The motivation to combine references under §103 must come from a teaching or suggestion within the prior art, within the nature of the problem to be solved, or within the general knowledge of a person of ordinary skill in the art, to look to particular sources, select particular elements, and to combine them as combined by the inventor. Ruiz v. A.B. Chance Co., 234 F.3d 654, 665 (Fed. Cir. 2000). An implicit motivation to combine exists when the combination of references results in a product or process that is more desirable. DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co., 464 F.3d 1356, 1368 (Fed. Cir. 2006).

A. Claims 1, 7, and 12

With respect to claims 1, 7, and 12, Appellant argues in substance that: (1) the cited references Namma et al, US 6182116 ("Namma") and Kimmel et al, US 6281790 ("Kimmel") do not disclose a peer-to-peer network, a peer distributed network, or a peer interface module (Br. 9); (2) Namma does not disclose controlling linked devices (Br. 10); (3) there is no

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reasonable expectation of success in combining Namma and Kimmel (Br. 10); and (4) the proposed modification of Namma with Kimmel would required altering Kimmel's principle of operation from monitoring sensors to controlling sensors (Br. 10).

I. APPELLANT IS ARGUING LIMITATIONS NOT IN THE CLAIMS.

Appellant's first argument should not be found persuasive because Appellant is arguing limitations not in the claim. Claim 1 recites in relevant part "a peer distributed, embedded web server system" and a master device having "a peer interface module" to communicate with a plurality of linked devices. There is no language concerning a peer-to-peer network or a peer-distributed network. There is no other language limiting or defining the claimed peer interface module.

Claim 7 merely recites "an embedded web server system" and a master device having a peer interface module as described in claim 1. Claim 12 merely recites a "distributed system" and a master device having a peer interface module as described in claim 1. Claims 7 and 12 do not recite a peer-to-peer network, a peer-distributed network or even a peer distributed web server system.

Namma and Kimmel disclose the limitations as claimed. Namma discloses a peer distributed web server system having a master device in communication with a plurality of linked devices. (Fig. 1). Namma's virtual WWW server apparatus reads on the claimed master device and WWW server A and WWW server B read on the claimed linked devices. Furthermore, Namma discloses an interface module that enables the master device to communicate with the peer linked devices (Fig. 1, items 14, 2, 3). Namma's data acquisition section allows the master device to communicate with the plurality of linked devices.

Appellant argues that the claimed references are not directed to a peer-to-peer network. Appellant's attempt to distinguish the claimed invention over the cited references hinges entirely on stretching the interpretation of the claimed terms "claimed peer distributed embedded web server system" (for claim 1 only) and "peer interface module" to include the peer-to-peer principles discussed in Appellant's brief. For example, Appellant asserts that Namma is directed to HTTP communications "which is exactly the protocol that peer networks seek to avoid." (Br. 9). However, nothing in Appellant's claim prohibits the use of HTTP.

Additionally, Appellant asserts that a "distributed peer network" differs from a "client-server model" because communications within a client-server model "takes place to and from a central server." Appellant's claims 1, 7 and 12 recite a "master control device" that communicates with a plurality of linked devices. In other words, communications within Appellant's system take place to and from the master control device. Therefore, by Appellant's own definitions, Appellant's claims are directed to client-server model. It is not clear from Appellant's claims that the claimed invention is to be implemented within a peer-to-peer network.

2. NAMMA DISCLOSES CONTROLLING THE LINKED DEVICES.

Appellant additionally argues that Namma is directed to controlling the supply of video data from video cameras and not controlling the linked devices themselves. (Br. 10). However, Namma discloses that master control device (the virtual server apparatus) sends operating commands to the linked devices, where the linked devices are cameras within the connected servers. (Fig. 9, items 2002, 30002 | col. 21, ll. 35-43). Thus, Namma clearly discloses

that the master control device communicates with and controls the plurality of linked devices as claimed.

3. THE COMBINATION OF NAMMA AND KIMMEL HAS A REASONABLE EXPECTATION OF SUCCESS.

In support of Appellant's assertion that there is no reasonable expectation of success, Appellant specifically argues that the combination "does not provide any insight as to making a system that controls sensor [sic] over P2P network [sic]." (Br. 10). However, one of ordinary skill in the art would have had a reasonable expectation of success because the Namma and Kimmel are directed to similar inventions and problems.

Namma is directed to a remote monitoring system that allows a user to send commands to linked devices (such as video cameras). Kimmel also discloses a remote monitoring system that utilizes a web server embedded in a centrally located system to controlling sensors and other devices.

Kimmel taught connecting computers over a network other than the Internet (such as Ethernet) as well as providing data from a monitored site directly to a monitoring site in a remote monitoring network. These features improve Namma's remote monitoring system by providing the precise location of an object being monitored in real time (Kimmel, col. 1, l. 65 to col. 2, l. 5).

4 KIMMEL DOES NOT CHANGE NAMMA'S PRINCIPLE OF OPERATION.

The proper inquiry is to determine "[i]f the proposed modification or combination of the prior art would change the principle of operation of *the prior art invention being modified*." (emphasis added) MPEP §2143.01(VI). Thus, the test is whether Namma, as the reference

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being modified, must alter its principle of operation in order to accommodate Kimmel's teachings.

The basis of Appellant's argument is that Kimmel's principle of operation must be modified from monitoring sensors to controlling sensors. Appellant's focus on Kimmel is therefore misplaced. Modifying Namma to include Kimmel's teachings of a network other than the Internet and providing data from a monitored site directly to a monitoring site does not alter Namma's principle of operation. Kimmel supplements Namma's system with enhanced functionality that improves Namma's system. Kimmel does not alter Namma's system.

B. Claims 2-6, 8-11, and 13-20

While Appellant argues dependent claims 2-6, 8-11, and 13-20 separately, for each claim, Appellant merely reasserts that the cited references do not disclose "any type of P2P network." Appellant concludes the argument for each dependent claim by asserting, without any reasoning, that the cited references fail to disclose the claimed features of the respective claim.

As discussed above, Namma and Kimmel teach the features of a peer distributed embedded web server system and a peer interface module as claimed. Appellant's discussion of peer-to-peer networks and its related functionality is irrelevant as it is not a limitation of the claims. With respect to the other features of the dependent claims, it is maintained that Namma and Kimmel teach each of the limitations of claims 2-6, 8-11, and 13-20 as set forth in the rejection.

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(II) Related Proceeding(s) Appendix

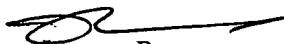
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

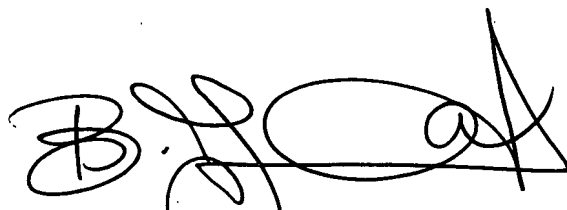
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DC
November 15, 2007

Conferees:


Lynne Browne
Appeals Specialist, TQAS


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SUPERVISORY PATENT EXAMINER